

FORM 1-IV: Cover Letter Transmitting an Apparent Violation of Decommissioning Requirements as a Result of a Records Review and Requesting Response

EA-YY-XXX

(Name of Licensee)

(Address)

SUBJECT: APPARENT VIOLATION - 10 CFR (specify, e.g. 30.35(c)(4))

Dear _____:

This refers to a review of records associated with your NRC License No. (insert number). The purpose of this review was to determine your compliance with (specify, e.g., "the financial assurance requirements in 10 CFR 30.35", or "the decommissioning requirements in 10 CFR 30.36"). At the conclusion of the review, the findings were discussed with (name(s) of licensee representative(s)) of your facility in a (telephone conversation) / (meeting) on (date).

Based on the results of this review, (number) apparent violation(s) was (were) identified as follows and is (are) being considered for escalated enforcement action in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600. [Include either: "(enclosed)" or "The current Enforcement Policy is included on the NRC's Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Enforcement Policy**."].

[The narrative that follows should briefly discuss the nature of the apparent violation(s) with references to the applicable section(s) of the regulations or regulatory requirements. The text for this section should be adapted from the applicable Standard Citation, e.g.,

"10 CFR 30.35(c)(4) requires that any licensee subject to the provisions of 10 CFR 30.35(a) or (b) that submitted an application for renewal of the license before July 27, 1990 must provide financial assurance for decommissioning in accordance with 10 CFR 30.35(a) and (b) by November 24, 1995. Your license authorizes the possession and use of (quantity) of (nuclide); therefore you are subject to 10 CFR (specify "30.35(a)" or "30.35(b)"). Additionally, you applied for renewal of your license on (date). However, our records review indicates that you have failed to submit a decommissioning funding plan."

or,

"Decommissioning your facility will involve techniques that you did not use during your operations, which could increase potential safety impacts on workers; and these decontamination procedures have not been previously approved by the Commission. Specifically, (state the decommissioning procedure(s) and the potential safety impact). Therefore, you are required to submit a decommissioning plan pursuant to 10 CFR 30.36(g)(1). 10 CFR 30.36(d) requires that a licensee submit a decommissioning plan within 12 months after notifying the NRC that it has decided to permanently cease principal activities. You notified the NRC that you permanently ceased operations by letter dated (date). Therefore, you were required to submit a decommissioning plan on or before (date + 12 months). However, our records review indicates that you have failed to submit a decommissioning plan."]

The circumstances surrounding this (these) apparent violation(s), the significance of the issues, and the need for prompt corrective action were discussed with your staff during the (telephone conversation) / (meeting) on (date). As a result, it may not be necessary to conduct a predecisional enforcement conference in order to enable the NRC to make an enforcement decision. However, a Notice of Violation is not presently being issued for results of the records review. Before the NRC makes its enforcement decision, we are providing you an opportunity to either: (1) respond to the apparent violation(s) described above within 30 days of the date of this letter or (2) request a predecisional enforcement conference within 7 days of the date of this letter.

Your response should be clearly marked as a "Response to An Apparent Violation; EA-YY-XXX" and should include for each apparent violation: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. Your response should be submitted under oath or affirmation and may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a predecisional enforcement conference.

In addition, please be advised that the number and characterization of apparent violations described above may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

Please note that the promptness and comprehensiveness of your corrective action will be an important factor in deciding any enforcement sanction. Violations of decommissioning requirements may be categorized at Severity Level III in accordance with the Enforcement Policy and may be subject to escalated enforcement action, including civil penalties. However, if you provide an acceptable plan for meeting the requirement(s) and fully implement the plan in accordance with a schedule agreed upon by the NRC staff, the NRC will give consideration to categorizing the violation(s) at Severity Level IV and not assessing a civil penalty. You should be aware that the severity level of a violation may be increased if a licensee has notice of the violation but is either unwilling or unable to achieve compliance. In such cases, daily civil penalties may be assessed until the violation is corrected.

Should you have any questions, please contact (name of Region contact) at (telephone number).

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure(s), and your response (if you choose to provide one) will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Sincerely,

Regional Administrator
or Designated Division Director

Docket No. _____

License No. _____